

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

THIS DOCUMENT RELATES TO:

ALL ACTIONS

BAP ADMINISTRATOR STATUS REPORT NO. 14

1. The Garretson Resolution Group, Inc. d/b/a Epiq Mass Tort serves as the Baseline Assessment Program ("BAP") Administrator ("the BAP Administrator") for the Settlement program in the above-captioned action.¹ Since its appointment by the Court to serve in this role, the BAP Administrator has worked diligently with Class Counsel and Counsel for the NFL Parties ("the Parties") to meet its responsibilities under the Settlement Agreement. The BAP Administrator submits this Status Report to provide an update to the Court on the status of the BAP Administrator's work implementing the BAP.

Norming Agreement Activities

2. Since the last Status Report, the BAP Administrator has worked closely with the Claims Administrator, the Parties, and the Special Masters to implement the modifications to the NFL Concussion Settlement Agreement pursuant to Section 6.6 ("the Norming Agreement"), which was approved by the Court on March 4, 2022. These activities are described below.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement.

3. The BAP Administrator collaborated with the Claims Administrator in support of efforts to determine which Settlement Class Members were eligible for benefits under the Norming Agreement and the benefits to which those Settlement Class Members were entitled. To that end, the BAP Administrator:

- a. Provided the Claims Administrator with BAP reports for 5,940 Settlement Class Members who participated in the BAP.
- b. Identified additional Settlement Class Members who had sought participation in the BAP but had not had their results finalized by March 4, 2022, so that they could be notified that while they were not eligible for automatic retrospective rescoring, they will have the New Method applied to their test results prior to those results being finalized.
- c. Identified which Settlement Class Members had not sought to participate in the BAP, and who therefore would not have had race norms applied to any BAP results.

4. The BAP Administrator reconfigured its software systems to allow the 2,405 Settlement Class Members notified of their eligibility for Expanded BAP Exams to request and schedule a new set of BAP appointments (previous controls had prevented Settlement Class Members from requesting and scheduling more than one set of BAP appointments pursuant to the provision in the Settlement Agreement that limited eligible Settlement Class Members to one set of BAP appointments only).

5. The BAP Administrator performed ongoing analysis to project the effect on the network of Qualified BAP Providers when additional Settlement Class Members were notified of their eligibility for Expanded BAP Exams, prioritizing the recruitment of additional Qualified BAP Providers in areas most likely to be affected by the additional demand.

6. The BAP Administrator continues to work with the Claims Administrator to apply the New Method to reports for Settlement Class Members whose BAP results were not finalized prior to Court approval of the Norming Agreement on March 4, 2022. (As stated above, these Settlement Class Members were not entitled to automatic retrospective rescoring but are entitled to have the New Method applied to their BAP reports.)

Maintaining the Qualified BAP Provider Network

7. In implementing the BAP, the BAP Administrator is responsible for maintaining a network of Qualified BAP Providers to administer the specified baseline assessment examinations under the BAP and authorized medical services under the BAP Supplemental Benefits program. As of May 9, 2022, the BAP Administrator has contracted with 277 Qualified BAP Providers in fifty metropolitan areas across the United States. The BAP Administrator continues to diligently enroll Qualified BAP Providers to expand the BAP network wherever necessary to ensure sufficient depth of coverage and improve program efficiencies, including in cities where demand is the most affected by the availability of Expanded BAP Examinations. For cities without sufficient contracted Qualified BAP Providers to fully meet demand, the BAP Administrator continues to seek alternate arrangements to ensure timely appointments for Retired NFL Football Players.

Baseline Assessment Examinations Scheduled and Attended to Date

8. The BAP offers a two-part baseline assessment examination, consisting of a clinical neuropsychology appointment lasting an average of six to eight hours and a basic neurological examination lasting approximately one hour. The BAP Administrator's scheduling process is intended to ensure that Retired NFL Football Players are scheduled at a provider location, date, and time acceptable and convenient to them. Typically, the BAP Administrator attempts to schedule the clinical neuropsychology appointment so that it occurs first, and far enough in

advance of the neurology appointment that the clinical neuropsychologist's report is available for review during the neurology appointment.

9. As of May 9, 2022, the Claims Administrator of the Settlement program determined that 12,838 Retired NFL Football Players are eligible to participate in the BAP. Of these 12,838 individuals, the BAP Administrator has received requests to schedule baseline assessment examinations from 7,529 Retired NFL Football Players directly or through their attorneys. This represents 58.6% of BAP-eligible Retired NFL Football Players.

10. Of the 7,529 Retired NFL Football Players who have requested appointments, the BAP Administrator has offered one or more appointments with Qualified BAP Providers to 7,504 of them (99.7%). Retired NFL Football Players who have requested appointments have waited a median time of 15 days until the BAP Administrator secured and offered a neuropsychology appointment (consisting of a specific date, time, and location) from a Qualified BAP Provider neuropsychologist. To ensure the neuropsychology appointment takes place before the neurology appointment, the BAP Administrator seeks to confirm with the Retired NFL Football Player or his attorney that the Retired NFL Football Player accepts the offered neuropsychology appointment before securing a neurology appointment. As a result of these activities, the median time between the initial offer of a neuropsychology appointment and the initial offer of a neurology appointment is 70 days. Median time from the initial request until the actual neuropsychology appointment is 112 days; the median time from request until the actual neurology appointment is 195 days. Table 1 summarizes wait times as of May 9, 2022.

Table 1. Appointment Scheduling Wait Times

Metric	Median in Days
Time from request to offered neuropsychology appointment	15
Time from offered neuropsychology appointment to offered neurology appointment	70
Time from request to neuropsychology appointment date	112
Time from request to neurology appointment date	195

11. As of May 9, 2022, 6,660 Retired NFL Football Players (88.5% of those who have requested appointments) have attended a total of 13,344 appointments. This number consists of 6,125 Retired NFL Football Players (81.4%) who have attended two or more² appointments and 535 Retired NFL Football Players (7.1%) who have attended one appointment.

12. Of the 7,504 Retired NFL Football Players for whom the BAP Administrator has scheduled or offered one or more appointments, 6,727 (89.3% of those who have requested appointments) currently have one or more appointments scheduled (including appointments that have already taken place). Of the 6,727 Retired NFL Football Players with scheduled appointments, 6,210 (82.5% of all who have requested) have been scheduled for both neuropsychology and neurology appointments, and 517 (6.9% of all who have requested) have been scheduled for one appointment. For the latter group, the BAP Administrator will continue to work to promptly schedule these Retired NFL Football Players' second appointments.

13. Of the 7,504 Retired NFL Football Players for whom the BAP Administrator has scheduled or offered one or more appointments, 777 have had at least one appointment scheduled or offered to them in the past but have not attended any appointments and do not currently have any upcoming appointments scheduled. Of those 777 Retired NFL Football Players, 103 have had their requests closed due to lack of interest (after numerous attempts by the BAP Administrator to

² Certain Retired NFL Football Players have attended more than two appointments because they and/or the Qualified BAP Providers have requested to break up the clinical neuropsychology appointments, which the BAP Administrator has accommodated.

schedule appointments on their behalf), while 674 are still active in the scheduling process. These 674 Retired NFL Football Players have had a total of 3,594 rejected, cancelled, or missed appointments (an average of 5.6 each). Table 2 breaks down the reasons and sources of those cancellations.

Table 2. Cancellation Reasons – Players with No Active Appointments

Cancellation Reason	Source³		
	Player	Provider	BAP Administrator
Confirmed, then Cancelled	9.9%	5.3%	0.6%
Rejected or Withdrawn	49.6%	24.6%	2.0%
Missed	8.0%	0.0%	0.0%

More than half of these Retired NFL Football Players reside in or near ten cities – Atlanta, Houston, Dallas, Los Angeles, Miami, New Orleans, Phoenix, Charlotte, Orlando, and Jacksonville – all of which are among the cities with the highest populations of Retired NFL Football Players. The median time from request to clinical neuropsychology appointment offered among Retired NFL Football Players with no active appointments in these cities ranges from four days in Houston to 42 days in New Orleans, with an average of 14 days. In all such cases, the BAP Administrator continues to work with Qualified BAP Providers, and Retired NFL Football Players or their attorneys, to ensure Retired NFL Football Players receive appointments that meet their preference for location, provider, and schedule, while accommodating the Qualified BAP Providers' schedules.

14. Finally, 25 (0.3%) Retired NFL Football Players have requested baseline assessment examinations but have not yet had appointments scheduled or offered to them. Table

³ Note that these percentages may not add up to exactly 100% due to rounding.

3 summarizes Retired NFL Football Players with requests and appointments scheduled through May 9, 2022.

Table 3. Summary of Requests and Scheduling Activity to Date

Status	Number	% of Requested⁴
Players requesting participation in BAP	7,529	100.0%
Players offered one or more appointments	7,504	99.7%
Players with two appointments currently scheduled	6,210	82.5%
Players with one appointment currently scheduled	517	6.9%
Players with appointments previously offered but none attended or currently scheduled (active)	674	9.0%
Players with appointments previously offered but none attended or currently scheduled (inactive)	103	1.4%
Players waiting for their first offered appointments	25	0.3%

Note: Indented rows are subsets of rows above.

Providing Reports from Baseline Assessment Examinations

15. As part of its efforts to ensure prompt and accurate production of medical records and reports, the BAP Administrator conducts training sessions and offers guidance materials to each Qualified BAP Provider. The BAP Administrator is in regular contact with Qualified BAP Providers as questions or issues arise that may slow the production of medical records and reports. To provide incentives for Qualified BAP Providers to submit medical records and reports in a timely manner, the BAP Administrator included a provision in all its Qualified BAP Provider contracts that makes provider payment contingent on the Qualified BAP Providers submitting such documents.

16. Since inception of the BAP, the BAP Administrator has received BAP-generated medical records and reports from at least one specialist (neurologist or clinical neuropsychologist)

⁴ Note that these percentages may not add up to exactly 100% due to rounding.

6,554 Retired NFL Football Players, comprised of reports from both specialists for 6,030 Retired NFL Football Players, and records from one specialist for 524 Retired NFL Football Players.

17. After receiving the medical records and reports, the BAP Administrator reviews them for accuracy and completion, particularly against the requirements of the Settlement Agreement.

18. When either the records or reports are incomplete, the BAP Administrator works with the Qualified BAP Provider to ensure completion. The most common reasons for such follow-ups with providers include:

- a. Failure to clearly state what, if any, Neurocognitive Impairment level the Retired NFL Football Player qualified for, as defined by the Settlement Agreement;
- b. Omission of references to corroborating evidence, as required for diagnosing Level 1.5 Neurocognitive Impairment or Level 2 Neurocognitive Impairment under the Settlement;
- c. Failure to adequately address test validity and/or functional impairment, two topics required to be reported by clinical neuropsychologists as part of their reports; and
- d. Failure to meet other administrative requirements as articulated in the Clinician's Interpretation Guide promulgated pursuant to Exhibit A-2 of the Settlement Agreement.

19. Of the 6,030 Retired NFL Football Players for whom both reports have been submitted by Qualified BAP Providers, the BAP Administrator has completed its review process for 5,940 and has published them to the Retired NFL Football Player's online portal. Table 4

shows the status for Retired NFL Football Players whose reports have been submitted to the BAP Administrator as of May 9, 2022.

Table 4. BAP Report Review Status

Status	Number	% of Players with Both Appts Attended⁵
Players who have attended both appointments	6,125	100.0%
Players with both reports submitted to the BAP Administrator	6,030	98.5%
Players with review completed and published to portal	5,940	97.0%
Players with reports awaiting initial review	0	0.0%
Players with reports in follow up status with Qualified BAP Providers or awaiting application of the New Method	71	1.2%
Players with reports undergoing review by the Appeals Advisory Panel due to conflicting diagnoses between Qualified BAP Providers (per the Settlement Agreement)	19	0.3%

Note: Indented rows are subsets of rows above.

20. As of May 9, 2022, BAP examinations have resulted in 249 diagnoses of Level 1 Neurocognitive Impairment, 206 diagnoses of Level 1.5 Neurocognitive Impairment, and 135 diagnoses of Level 2 Neurocognitive Impairment, with 5,349 Retired NFL Football Players receiving no diagnosis.

BAP Supplemental Benefits

21. Under the Settlement Agreement, a Retired NFL Football Player diagnosed with Level 1 Neurocognitive Impairment is eligible to receive BAP Supplemental Benefits related to the Retired NFL Football Player's impairment in the form of medical treatment, counseling, and/or

⁵ Note that these percentages may not add up to exactly 100% due to rounding.

examination by Qualified BAP Providers, including pharmaceuticals if medically appropriate and prescribed by a Qualified BAP Provider.

22. The Settlement Agreement required Class Counsel and Counsel for the NFL Parties, in consultation with the BAP Administrator, to establish the maximum per-player benefit under the BAP Supplemental Benefits on the first anniversary of the commencement of the BAP. Accordingly, on June 6, 2018 (the first anniversary of the commencement of the BAP), Class Counsel and Counsel for the NFL Parties, in consultation with the BAP Administrator, established a \$35,000 maximum per-player benefit under the BAP Supplemental Benefits. As of May 9, 2022, the BAP Administrator is assessing the impact of additional Settlement Class Members who were notified of a diagnosis of Level 1 Neurocognitive Impairment (and are thus newly eligible for BAP Supplemental Benefits) as a result of the automatic retrospective rescoring performed by the Claims Administrator pursuant to the Norming Agreement. The BAP Administrator will include the results of this analysis in its next Status Report.

Respectfully submitted,

BAP ADMINISTRATOR

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